

107TH CONGRESS
2D SESSION

S. 1372

AMENDMENT

In the House of Representatives, U. S.,

May 1, 2002.

Resolved, That the bill from the Senate (S. 1372) entitled “An Act to reauthorize the Export-Import Bank of the United States”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

2 (a) *SHORT TITLE.*—*This Act may be cited as the “Ex-*
3 *port-Import Bank Reauthorization Act of 2002”.*

4 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
5 *Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Clarification that purposes include United States employment.

Sec. 3. Extension of authority.

Sec. 4. Administrative expenses.

Sec. 5. Increase in aggregate loan, guarantee, and insurance authority.

Sec. 6. Activities relating to Africa.

Sec. 7. Small business.

Sec. 8. Technology.

Sec. 9. Tied Aid Credit Fund.

Sec. 10. Expansion of authority to use Tied Aid Credit Fund.

Sec. 11. Renaming of Tied Aid Credit Program and Fund as Export Competi-
tiveness Program and Fund.

Sec. 12. Annual competitiveness report.

Sec. 13. Renewable energy sources.

Sec. 14. GAO reports.

Sec. 15. Human rights.

Sec. 16. Steel.

Sec. 17. Correction of references.

Sec. 18. Authority to deny application for assistance based on fraud or corrup-
tion by the applicant.

Sec. 19. Consideration of foreign country helpfulness in efforts to eradicate ter-
rorism.

Sec. 20. Outstanding orders and preliminary injury determinations.

Sec. 21. Sense of the Congress relating to renewable energy targets.

Sec. 22. Requirement that applicants for assistance disclose whether they have violated the Foreign Corrupt Practices Act; maintenance of list of violators.

Sec. 23. Sense of the Congress.

1 **SEC. 2. CLARIFICATION THAT PURPOSES INCLUDE UNITED**
 2 **STATES EMPLOYMENT.**

3 *Section 2(a)(1) of the Export-Import Bank Act of 1945*
 4 *(12 U.S.C. 635(a)(1)) is amended by striking the 2nd sen-*
 5 *tence and inserting the following: “The objects and purposes*
 6 *of the Bank shall be to aid in financing and to facilitate*
 7 *exports of goods and services, imports, and the exchange of*
 8 *commodities and services between the United States or any*
 9 *of its territories or insular possessions and any foreign*
 10 *country or the agencies or nationals of any such country,*
 11 *and in so doing to contribute to the employment of United*
 12 *States workers. To further meet the objective set forth in*
 13 *the preceding sentence, the Bank shall ensure that its loans,*
 14 *guarantees, insurance, and credits are contributing to*
 15 *maintaining or increasing employment of United States*
 16 *workers.”.*

17 **SEC. 3. EXTENSION OF AUTHORITY.**

18 *Section 7 of the Export-Import Bank Act of 1945 (12*
 19 *U.S.C. 635f) and section 1(c) of Public Law 103–428 (12*
 20 *U.S.C. 635 note; 108 Stat. 4376) are each amended by strik-*
 21 *ing “2001” and inserting “2005”.*

1 **SEC. 4. ADMINISTRATIVE EXPENSES.**

2 (a) *LIMITATIONS ON AUTHORIZATION OF APPROPRIA-*
 3 *TIONS.—Section 3 of the Export-Import Bank Act of 1945*
 4 *(12 U.S.C. 635a) is amended by adding at the end the fol-*
 5 *lowing:*

6 “(f) *LIMITATIONS ON AUTHORIZATION OF APPROPRIA-*
 7 *TIONS FOR ADMINISTRATIVE EXPENSES.—*

8 “(1) *IN GENERAL.—For administrative expenses*
 9 *incurred by the Bank, including technology-related*
 10 *expenses to carry out section 2(b)(1)(E)(x), there are*
 11 *authorized to be appropriated to the Bank not more*
 12 *than—*

13 “(A) *for fiscal year 2002, \$80,000,000; and*

14 “(B) *for each of fiscal years 2003 through*
 15 *2005, the amount authorized by this paragraph*
 16 *to be appropriated for the then preceding fiscal*
 17 *year, increased by the inflation percentage (as*
 18 *defined in section 6(a)(2)(B)) applicable to the*
 19 *then current fiscal year.*

20 “(2) *OUTREACH TO SMALL BUSINESSES WITH*
 21 *FEWER THAN 100 EMPLOYEES.—Of the amount appro-*
 22 *priated pursuant to paragraph (1), there shall be*
 23 *available for outreach to small business concerns (as*
 24 *defined under section 3 of the Small Business Act)*
 25 *employing fewer than 100 employees, not more*
 26 *than—*

1 “(A) \$2,000,000 for fiscal year 2002; and
 2 “(B) for each of fiscal years 2003 through
 3 2005, the amount required by this paragraph to
 4 be made available for the then preceding fiscal
 5 year, increased by the inflation percentage (as
 6 defined in section 6(a)(2)(B)) applicable to the
 7 then current fiscal year.”.

8 (b) *REQUIRED BUDGET SUBCATEGORIES.*—Section
 9 1105(a) of title 31, United States Code, is amended by add-
 10 ing at the end the following:

11 “(34) with respect to the amount of appropria-
 12 tions requested for use by the Export-Import Bank of
 13 the United States, a separate statement of the amount
 14 requested for its program budget, the amount re-
 15 quested for its administrative expenses, and of the
 16 amount requested for its administrative expenses, the
 17 amount requested for technology expenses and the
 18 amount requested for expenses for outreach to small
 19 business concerns (as defined under section 3 of the
 20 Small Business Act) employing fewer than 100 em-
 21 ployees.”.

22 (c) *SENSE OF THE CONGRESS ON THE IMPORTANCE*
 23 *OF TECHNOLOGY IMPROVEMENTS.*—

24 (1) *FINDINGS.*—The Congress finds that—

1 (A) the Export-Import Bank of the United
2 States is in great need of technology improve-
3 ments;

4 (B) part of the amount budgeted for admin-
5 istrative expenses of the Export-Import Bank is
6 used for technology initiatives and systems up-
7 grades for computer hardware and software pur-
8 chases;

9 (C) the Export-Import Bank is falling be-
10 hind its foreign competitor export credit agen-
11 cies' proactive technology improvements;

12 (D) small businesses disproportionately ben-
13 efit from improvements in technology;

14 (E) small businesses need Export-Import
15 Bank technology improvements in order to ex-
16 port transactions quickly, with as great paper
17 ease as possible, and with a quick Bank turn-
18 around time that does not overstrain the tight
19 resources of such businesses;

20 (F) the Export-Import Bank intends to de-
21 velop a number of e-commerce initiatives aimed
22 at improving customer service, including web-
23 based application and claim filing procedures
24 which would reduce processing time, speed pay-
25 ment of claims, and increase staff efficiency;

(G) the Export-Import Bank is beginning the process of moving insurance applications from an outdated mainframe system to a modern, web-enabled database, with new functionality including credit scoring, portfolio management, work flow and e-commerce features to be added; and

(H) the Export-Import Bank wants to continue its e-commerce strategy, including web site development, expanding online applications and establishing a public/private sector technology partnership.

(2) SENSE OF THE CONGRESS.—The Congress emphasizes the importance of technology improvements for the Export-Import Bank of the United States, which are of particular importance for small businesses.

SEC. 5. INCREASE IN AGGREGATE LOAN, GUARANTEE, AND INSURANCE AUTHORITY.

Section 6(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)) is amended to read as follows:

“(a) LIMITATION ON OUTSTANDING AMOUNTS.—

“(1) IN GENERAL.—The Export-Import Bank of the United States shall not have outstanding at any

one time loans, guarantees, and insurance in an aggregate amount in excess of the applicable amount.

“(2) *APPLICABLE AMOUNT.*—

“(A) *IN GENERAL.*—In paragraph (1), the term ‘applicable amount’ means—

“(i) during fiscal year 2002, \$100,000,000,000, increased by the inflation percentage applicable to fiscal year 2002;

“(ii) during fiscal year 2003, \$110,000,000,000, increased by the inflation percentage applicable to fiscal year 2003;

“(iii) during fiscal year 2004, \$120,000,000,000, increased by the inflation percentage applicable to fiscal year 2004; and

“(iv) during fiscal year 2005, \$130,000,000,000, increased by the inflation percentage applicable to fiscal year 2005.

“(B) *INFLATION PERCENTAGE.*—For purposes of subparagraph (A) of this paragraph, the inflation percentage applicable to any fiscal year is the percentage (if any) by which—

“(i) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-

1 month period ending on December 31 of the
 2 immediately preceding fiscal year; exceeds
 3 “(ii) the average of the Consumer Price
 4 Index (as so defined) for the 12-month pe-
 5 riod ending on December 31 of the 2nd pre-
 6 ceding fiscal year.

7 “(3) *SUBJECT TO APPROPRIATIONS.*—All spend-
 8 ing and credit authority provided under this Act shall
 9 be effective for any fiscal year only to such extent or
 10 in such amounts as are provided in appropriation
 11 Acts.”.

12 **SEC. 6. ACTIVITIES RELATING TO AFRICA.**

13 (a) *EXTENSION OF ADVISORY COMMITTEE FOR SUB-*
 14 *SAHARAN AFRICA.*—Section 2(b)(9)(B)(iii) of the *Export-*
 15 *Import Bank Act of 1945* (12 U.S.C. 635(b)(9)(B)(iii)) is
 16 amended by striking “4 years after the date of enactment
 17 of this subparagraph” and inserting “on September 30,
 18 2005”.

19 (b) *COORDINATION OF AFRICA ACTIVITIES.*—Section
 20 2(b)(9)(A) of the *Export-Import Bank Act of 1945* (12
 21 U.S.C. 635(b)(9)(A)) is amended by inserting “, in con-
 22 sultation with the Department of Commerce and the Trade
 23 Promotion Coordinating Council,” after “shall”.

24 (c) *CONTINUED REPORTS TO THE CONGRESS.*—Sec-
 25 tion 7(b) of the *Export-Import Bank Reauthorization Act*

1 of 1997 (12 U.S.C. 635 note) is amended by striking “4”
 2 and inserting “8”.

3 (d) *CREATION OF OFFICE ON AFRICA.*—Section 3 of
 4 the *Export-Import Bank Act of 1945* (12 U.S.C. 635a) is
 5 further amended by adding at the end the following:

6 “(g) *OFFICE ON AFRICA.*—

7 “(1) *ESTABLISHMENT.*—There is established in
 8 the Bank an Office on Africa.

9 “(2) *FUNCTION.*—The Office on Africa shall
 10 focus on increasing Bank activities in Africa and in-
 11 creasing visibility among United States companies of
 12 African markets for exports.

13 “(3) *REPORTS.*—The Office on Africa shall, from
 14 time to time not less than annually, report to the
 15 Board on the matters described in paragraph (2).”.

16 **SEC. 7. SMALL BUSINESS.**

17 (a) *IN GENERAL.*—Section 2(b)(1)(E)(v) of the *Ex-*
 18 *port-Import Bank Act of 1945* (12 U.S.C. 635(b)(1)(E)(v))
 19 is amended—

20 (1) by striking “10” and inserting “20”; and

21 (2) by inserting “, and from such amount, not
 22 less than 8 percent of such authority shall be made
 23 available for small business concerns employing fewer
 24 than 100 employees” before the period.

1 **(b) OUTREACH TO BUSINESSES OWNED BY SOCIALLY**
 2 **DISADVANTAGED INDIVIDUALS OR WOMEN.**—Section
 3 2(b)(1)(E)(iii)(II) of such Act (12 U.S.C.
 4 635(b)(1)(E)(iii)(II)) is amended by inserting after “Bank”
 5 the following: “, with particular emphasis on conducting
 6 outreach and increasing loans to businesses not less than
 7 51 percent of which are directly and unconditionally owned
 8 by 1 or more socially disadvantaged individuals (as defined
 9 in section 8(a)(5) of the Small Business Act) or women,”.

10 **(c) OFFICE FOR SMALL BUSINESS EXPORTERS.**—Sec-
 11 tion 3 of such Act (12 U.S.C. 635a) is further amended by
 12 adding at the end the following:

13 **“(h) OFFICE FOR SMALL BUSINESS EXPORTERS.**—

14 **“(1) ESTABLISHMENT.**—There is established in
 15 the Bank an Office for Small Business Exporters.

16 **“(2) FUNCTION.**—The Office for Small Business
 17 Exporters shall focus on increasing Bank activities to
 18 enhance small business exports and to meet the
 19 unique trade finance needs of small business export-
 20 ers.

21 **“(3) REPORTS.**—The Office for Small Business
 22 Exporters shall, from time to time not less than an-
 23 nually, report to the Board on the how the Office for
 24 Small Business Exporters is achieving the goals as
 25 described in paragraph (2).

1 “(4) *SENSE OF CONGRESS.*—*It is the sense of the*
 2 *Congress that the Bank should redirect and prioritize*
 3 *existing resources and personnel to establish the Office*
 4 *for Small Business Exporters.*”.

5 **SEC. 8. TECHNOLOGY.**

6 (a) *SMALL BUSINESS.*—*Section 2(b)(1)(E) of the Ex-*
 7 *port-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)) is*
 8 *amended by adding at the end the following:*

9 “(x) *The Bank shall implement technology improve-*
 10 *ments which are designed to improve small business out-*
 11 *reach, including allowing customers to use the Internet to*
 12 *apply for all Bank programs.*”.

13 (b) *ELECTRONIC TRACKING OF PENDING TRANS-*
 14 *ACTIONS.*—*Section 2(b)(1) of such Act (12 U.S.C.*
 15 *635(b)(1)) is amended by adding at the end the following:*

16 “(J) *The Bank shall implement an electronic system*
 17 *designed to track all pending transactions of the Bank.*”.

18 (c) *REPORTS.*—

19 (1) *IN GENERAL.*—*During each of fiscal years*
 20 *2002 through 2005, the Export-Import Bank of the*
 21 *United States shall submit to the Committees on Fi-*
 22 *nancial Services and on Appropriations of the House*
 23 *of Representatives and the Committees on Banking,*
 24 *Housing, and Urban Affairs and on Appropriations*
 25 *of the Senate an interim report and a final report on*

1 *the efforts made by the Bank to carry out subsections*
 2 *(E)(x) and (J) of section 2(b)(1) of the Export-Import*
 3 *Bank Act of 1945, and on how the efforts are assist-*
 4 *ing small businesses.*

5 (2) *TIMING.*—*The interim report required by*
 6 *paragraph (1) for a fiscal year shall be submitted*
 7 *April 30 of the fiscal year, and the final report so re-*
 8 *quired for a fiscal year shall be submitted on Novem-*
 9 *ber 1 of the succeeding fiscal year.*

10 **SEC. 9. TIED AID CREDIT FUND.**

11 (a) *PRINCIPLES, PROCESS, AND STANDARDS.*—*Section*
 12 *10(b) of the Export-Import Bank Act of 1945 (12 U.S.C.*
 13 *635i–3(b)) is amended—*

14 (1) *in paragraph (2), by striking subparagraph*
 15 *(A) and inserting the following:*

16 “(A) *in consultation with the Secretary and*
 17 *in accordance with the principles, process, and*
 18 *standards developed pursuant to paragraph (5)*
 19 *of this subsection and the purposes described in*
 20 *subsection (a)(5);”;* and

21 (2) *by adding at the end the following:*

22 “(5) *PRINCIPLES, PROCESS, AND STANDARDS*
 23 *GOVERNING USE OF THE FUND.*—

24 “(A) *IN GENERAL.*—*The Secretary and the*
 25 *Bank jointly shall develop a process for, and the*

1 *principles and standards to be used in, deter-*
 2 *mining how the amounts in the Tied Aid Credit*
 3 *Fund could be used most effectively and effi-*
 4 *ciently to carry out the purposes of subsection*
 5 *(a)(6).*

6 “(B) *CONTENT OF PRINCIPLES, PROCESS,*
 7 *AND STANDARDS.—*

8 “(i) *CONSIDERATION OF CERTAIN PRIN-*
 9 *CIPLES AND STANDARDS.—In developing the*
 10 *principles and standards referred to in sub-*
 11 *paragraph (A), the Secretary and the Bank*
 12 *shall consider administering the Tied Aid*
 13 *Credit Fund in accordance with the fol-*
 14 *lowing principles and standards:*

15 “(I) *The Tied Aid Credit Fund*
 16 *should be used to leverage multilateral*
 17 *negotiations to restrict the scope for*
 18 *aid-financed trade distortions through*
 19 *new multilateral rules, and to police*
 20 *existing rules.*

21 “(II) *The Tied Aid Credit Fund*
 22 *will be used to counter a foreign tied*
 23 *aid credit confronted by a United*
 24 *States exporter when bidding for a*
 25 *capital project.*

1 “(III) Credible information about
2 an offer of foreign tied aid will be re-
3 quired before the Tied Aid Credit Fund
4 is used to offer specific terms to match
5 such an offer.

6 “(IV) The Tied Aid Credit Fund
7 will be used to enable a competitive
8 United States exporter to pursue fur-
9 ther market opportunities on commer-
10 cial terms made possible by the use of
11 the Fund.

12 “(V) Each use of the Tied Aid
13 Credit Fund will be in accordance
14 with the Arrangement unless a breach
15 of the Arrangement has been committed
16 by a foreign export credit agency.

17 “(VI) The Tied Aid Credit Fund
18 may only be used to defend potential
19 sales by United States companies to a
20 project that is environmentally sound.

21 “(VII) The Tied Aid Credit Fund
22 may be used to preemptively counter
23 potential foreign tied aid offers without
24 triggering foreign tied aid use.

1 “(ii) *LIMITATION.*—The principles,
 2 *process and standards referred to in sub-*
 3 *paragraph (A) shall not result in the Sec-*
 4 *retary having the authority to veto a spe-*
 5 *cific deal.*

6 “(C) *INITIAL PRINCIPLES, PROCESS, AND*
 7 *STANDARDS.*—As soon as is practicable but not
 8 *later than 6 months after the date of the enact-*
 9 *ment of this paragraph, the Secretary and the*
 10 *Bank shall submit to the Committee on Finan-*
 11 *cial Services of the House of Representatives and*
 12 *the Committee on Banking, Housing, and Urban*
 13 *Affairs of the Senate a copy of the principles,*
 14 *process, and standards developed pursuant to*
 15 *subparagraph (A).*

16 “(D) *TRANSITIONAL PRINCIPLES AND*
 17 *STANDARDS.*—The principles and standards set
 18 *forth in subparagraph (B)(i) shall govern the use*
 19 *of the Tied Aid Credit Fund until the principles,*
 20 *process, and standards required by subparagraph*
 21 *(C) are submitted.*

22 “(E) *UPDATE AND REVISION.*—The Sec-
 23 *retary and the bank jointly should update and*
 24 *revise, as needed, the principles, process, and*
 25 *standards developed pursuant to subparagraph*

(A), and, on doing so, shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a copy of the principles, process, and standards so updated and revised.”.

(b) *RECONSIDERATION OF BOARD DECISIONS ON USE OF FUND.*—Section 10(b) of such Act (12 U.S.C. 635i–3(b)) is further amended by adding at the end the following:

“(6) *RECONSIDERATION OF DECISIONS.*—

“(A) *IN GENERAL.*—Taking into consideration the time sensitivity of transactions, the Board of Directors of the Bank shall expeditiously pursuant to paragraph (2) reconsider a decision of the Board to deny an application of the use of the Tied Aid Credit Fund if the applicant submits the request for reconsideration within 3 months of the denial.

“(B) *PROCEDURAL RULES.*—In any such reconsideration, the applicant may be required to, provide new information on the application.”.

SEC. 10. EXPANSION OF AUTHORITY TO USE TIED AID CREDIT FUND.

(a) *UNTIED AID.*—

1 (1) *NEGOTIATIONS.*—*The Secretary of the Treas-*
 2 *ury shall seek to negotiate an OECD Arrangement on*
 3 *Untied Aid. In the negotiations, the Secretary should*
 4 *seek agreement on subjecting untied aid to the rules*
 5 *governing the Arrangement, including the rules gov-*
 6 *erning disclosure.*

7 (2) *REPORT TO THE CONGRESS.*—*Within 1 year*
 8 *after the date of the enactment of this Act, the Sec-*
 9 *retary of the Treasury shall submit to the Committee*
 10 *on Financial Services of the House of Representatives*
 11 *and the Committee on Banking, Housing, and Urban*
 12 *Affairs of the Senate a report on the successes, fail-*
 13 *ures, and obstacles in initiating negotiations, and if*
 14 *negotiations were initiated, in reaching the agreement*
 15 *described in paragraph (1).*

16 (b) *MARKET WINDOWS.*—

17 (1) *NEGOTIATIONS.*—*The Secretary of the Treas-*
 18 *ury shall seek to negotiate an OECD Arrangement on*
 19 *Market Windows. In the negotiations, the Secretary*
 20 *should seek agreement on subjecting market windows*
 21 *to the rules governing the Arrangement, including the*
 22 *rules governing disclosure.*

23 (2) *REPORT TO THE CONGRESS.*—*Within 2 years*
 24 *after the date of the enactment of this Act, the Sec-*
 25 *retary of the Treasury shall submit to the Committee*

1 *on Financial Services of the House of Representatives*
 2 *and the Committee on Banking, Housing, and Urban*
 3 *Affairs of the Senate a report on the successes, fail-*
 4 *ures, and obstacles in initiating negotiations, and if*
 5 *negotiations were initiated, in reaching the agreement*
 6 *described in paragraph (1).*

7 *(c) USE OF TIED AID CREDIT FUND TO COMBAT UN-*
 8 *TIED AID.—Section 10 of the Export-Import Bank Act of*
 9 *1945 (12 U.S.C. 635i–3) is amended in subsection (a)—*

10 *(A) in paragraph (4), by striking “and” at*
 11 *the end;*

12 *(B) in paragraph (5), by inserting “, or un-*
 13 *tied aid,” before “for commercial” the 1st and*
 14 *3rd places it appears; and*

15 *(C) by redesignating paragraph (5) as*
 16 *paragraph (6) and inserting after paragraph (4)*
 17 *the following:*

18 *“(5) the Bank has, at a minimum, the following*
 19 *two tasks:*

20 *“(A)(i) First, the Bank should match, and*
 21 *even overmatch, foreign export credit agencies*
 22 *and aid agencies when they engage in tied aid*
 23 *outside the confines of the Arrangement and*
 24 *when they exploit loopholes, such as untied aid;*

1 “(ii) such matching and overmatching is
 2 needed to provide the United States with leverage
 3 in efforts at the OECD to reduce the overall level
 4 of export subsidies;

5 “(iii) only through matching or bettering
 6 foreign export credit offers can the Bank buttress
 7 United States negotiators in their efforts to bring
 8 these loopholes within the disciplines of the Ar-
 9 rangement; and

10 “(iv) in order to bring untied aid within
 11 the discipline of the Arrangement, the Bank
 12 should sometimes initiate highly competitive fi-
 13 nancial support when the Bank learns that for-
 14 eign untied aid offers will be made; and

15 “(B) Second, the Bank should support
 16 United States exporters when the exporters face
 17 foreign competition that is consistent with the
 18 letter and spirit of the Arrangement and the
 19 Subsidies Code of the World Trade Organization,
 20 but which nonetheless is more generous than the
 21 terms available from the private financial mar-
 22 ket; and”.

23 (d) *DEFINITION OF MARKET WINDOW.*—Section 10(h)
 24 of such Act (12 U.S.C. 635i–3(h)) is amended by adding
 25 at the end the following:

1 “(7) *MARKET WINDOW*.—The term ‘market win-
 2 *dow*’ means the provision of export financing through
 3 an institution (or a part of an institution) that
 4 claims to operate on a commercial basis while bene-
 5 fitting directly or indirectly from some level of govern-
 6 ment support.”.

7 **SEC. 11. RENAMING OF TIED AID CREDIT PROGRAM AND**
 8 **FUND AS EXPORT COMPETITIVENESS PRO-**
 9 **GRAM AND FUND.**

10 Section 10 of the Export-Import Bank Act of 1945 (12
 11 U.S.C. 635i–3) is further amended—

12 (1) by striking all that precedes paragraph (1)
 13 of subsection (a) and inserting the following:

14 **“SEC. 10. EXPORT COMPETITIVENESS FUND.**

15 “(a) *FINDINGS*.—The Congress finds that—”;

16 (2) in subsection (a)(6) (as so redesignated by
 17 section 9(c)(1)(D) of this Act), by striking “tied aid
 18 program” and inserting “export competitiveness pro-
 19 gram”;

20 (3) in the heading of subsection (b), by striking
 21 “TIED AID CREDIT” and inserting “EXPORT COM-
 22 PETITIVENESS”;

23 (4) in subsection (b)(1)—

1 (A) by striking “*tied aid credit program*”
 2 and inserting “*export competitiveness program*”;
 3 and

4 (B) by striking “*Tied Aid Credit fund*” and
 5 inserting “*Export Competitiveness Fund*”;

6 (5) in subsection (b)(2), by striking “*tied aid*
 7 *credit program*” and inserting “*export competitive-*
 8 *ness program*”;

9 (6) in subsection (b)(3)—

10 (A) by striking “*tied aid credit program*”
 11 and inserting “*export competitiveness program*”;
 12 and

13 (B) by striking “*Tied Aid Credit Fund*”
 14 and inserting “*Export Competitiveness Fund*”;

15 (7) in subsection (b)(5) (as added by section
 16 9(a)(2) of this Act), by striking “*Tied Aid Credit*
 17 *Fund*” each place it appears and inserting “*Export*
 18 *Competitiveness Fund*”;

19 (8) in subsection (b)(6) (as added by section 9(b)
 20 of this Act), by striking “*Tied Aid Credit Fund*” and
 21 inserting “*Export Competitiveness Fund*”;

22 (9) in subsection (c)—

23 (A) in the subsection heading, by striking
 24 “*TIED AID CREDIT*” and inserting “*EXPORT*
 25 *COMPETITIVENESS*”; and

1 (B) in paragraph (1), by striking “Tied
2 Aid Credit” and inserting “Export Competitive-
3 ness”;

4 (10) in subsection (d), by striking “tied aid cred-
5 it” and inserting “export competitiveness”; and

6 (11) in subsection (g)(2)(C), by striking “Tied
7 Aid Credit” and inserting “Export Competitiveness”.

8 **SEC. 12. ANNUAL COMPETITIVENESS REPORT.**

9 (a) *TIMING.*—

10 (1) *IN GENERAL.*—Section 2(b)(1)(A) of the *Ex-*
11 *port-Import Bank Act of 1945* (12 U.S.C.
12 635(b)(1)(A)) is amended in the 4th sentence by strik-
13 ing “on an annual basis” and inserting “on June 30
14 of each year”.

15 (2) *APPLICABILITY.*—The amendment made by
16 paragraph (1) shall apply to reports for calendar
17 years after calendar year 2000.

18 (b) *ADDITIONAL MATTERS TO BE ADDRESSED.*—Sec-
19 tion 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is
20 amended by adding at the end the following: “The Bank
21 shall include in the annual report a description of the vol-
22 ume of financing provided by each foreign export credit
23 agency, and a description of all Bank transactions which
24 shall be classified according to their principal purpose, such

1 *as to correct a market failure or to provide matching sup-*
 2 *port.”.*

3 (c) *NUMBER OF SMALL BUSINESS SUPPLIERS OF*
 4 *BANK USERS.*—Section 2(b)(1)(A) of such Act (12 U.S.C.
 5 635(b)(1)(A)) is further amended by adding at the end the
 6 following: “The Bank shall estimate on the basis of an an-
 7 nual survey or tabulation the number of entities that are
 8 suppliers of users of the Bank and that are small business
 9 concerns (as defined under section 3 of the Small Business
 10 Act) located in the United States, and shall include the esti-
 11 mate in the annual report.”.

12 (d) *OUTREACH TO BUSINESSES OWNED BY SOCIALLY*
 13 *DISADVANTAGED INDIVIDUALS OR BY WOMEN.*—Section
 14 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is further
 15 amended by adding at the end the following: “The Bank
 16 shall include in the annual report a description of outreach
 17 efforts made by the Bank to any business not less than 51
 18 percent of which is directly and unconditionally owned by
 19 1 or more socially disadvantaged individuals (as defined
 20 in section 8(a)(5) of the Small Business Act) or women,
 21 and any data on the results of such efforts.”.

22 **SEC. 13. RENEWABLE ENERGY SOURCES.**

23 (a) *PROMOTION.*—Section 2(b)(1) of the *Export-Im-*
 24 *port Bank Act of 1945* (12 U.S.C. 635(b)(1)), as amended

1 by section 8(b) of this Act, is amended by adding at the
2 end the following:

3 “(K) The Bank shall promote the export of goods and
4 services related to renewable energy sources.”.

5 (b) DESCRIPTION OF EFFORTS TO BE INCLUDED IN
6 ANNUAL COMPETITIVENESS REPORT.—Section 2(b)(1)(A)
7 of such Act (12 U.S.C. 635(b)(1)(A)) is further amended
8 by adding at the end the following: “The Bank shall include
9 in the annual report a description of the efforts undertaken
10 under subparagraph (K).”.

11 **SEC. 14. GAO REPORTS.**

12 (a) POTENTIAL OF WTO TO REMEDY UNTIED AID AND
13 MARKET WINDOWS.—Within 1 year after the date of the
14 enactment of this Act, the Comptroller General of the United
15 States shall submit to the Committee on Financial Services
16 of the House of Representatives and the Committee on
17 Banking, Housing, and Urban Affairs of the Senate a re-
18 port that examines—

19 (1) whether a case could be brought by the
20 United States in the World Trade Organization seek-
21 ing relief against untied aid and market windows,
22 and if so, the kinds of relief that would be available
23 if the United States were to prevail in such a case;
24 and

1 (2) *the scope of penalty tariffs that the United*
 2 *States could impose against imports from a country*
 3 *that uses untied aid or market windows.*

4 (b) *COMPARATIVE RESERVE PRACTICES OF EXPORT*
 5 *CREDIT AGENCIES AND PRIVATE BANKS.*—*Within 1 year*
 6 *after the date of the enactment of this Act, the Comptroller*
 7 *General of the United States shall submit to the Committee*
 8 *on Financial Services of the House of Representatives and*
 9 *the Committee on Banking, Housing, and Urban Affairs*
 10 *of the Senate a report that examines the reserve ratios of*
 11 *the Export-Import Bank of the United States as compared*
 12 *with the reserve practices of private banks and foreign ex-*
 13 *port credit agencies.*

14 **SEC. 15. HUMAN RIGHTS.**

15 Section 2(b)(1)(B) of the *Export-Import Bank Act of*
 16 1945 (12 U.S.C. 635(b)(1)(B)) is amended by inserting “(as
 17 provided in the *Universal Declaration of Human Rights*
 18 adopted by the *United Nations General Assembly* on Decem-
 19 ber 10, 1948)” after “human rights”.

20 **SEC. 16. STEEL.**

21 (a) *REEVALUATION.*—*The Export-Import Bank of the*
 22 *United States shall re-assess the effects of the approval by*
 23 *the Bank of an \$18,000,000 medium-term guarantee to sup-*
 24 *port the sale of computer software, control systems, and*
 25 *main drive power supplies to Benxi Iron & Steel Company,*

1 *in Benxi, Liaoning, China, for the purpose of evaluating*
 2 *whether the adverse impact test of the Bank sufficiently*
 3 *takes account of the interests of United States industries.*

4 *(b) REPORT TO THE CONGRESS.—Within 1 year after*
 5 *the date of the enactment of this Act, the Export-Import*
 6 *Bank of the United States shall submit to the Committee*
 7 *on Financial Services of the House of Representatives and*
 8 *the Committee on Banking, Housing, and Urban Affairs*
 9 *of the Senate a report on the re-assessment required by sub-*
 10 *section (a).*

11 **SEC. 17. CORRECTION OF REFERENCES.**

12 *(a) Section 2(b)(1)(B) of the Export-Import Bank Act*
 13 *of 1945 (12 U.S.C. 635(b)(1)(B)) is amended by striking*
 14 *“Banking and”.*

15 *(b) Each of the following provisions of the Export-Im-*
 16 *port Bank Act of 1945 is amended by striking “Banking,*
 17 *Finance and Urban Affairs” and inserting “Financial*
 18 *Services”:*

19 *(1) Section 2(b)(6)(D)(i)(III) (12 U.S.C.*
 20 *635(b)(6)(D)(i)(III)).*

21 *(2) Section 2(b)(6)(H) (12 U.S.C. 635(b)(6)(H)).*

22 *(3) Section 2(b)(6)(I)(i)(II) (12 U.S.C.*
 23 *635(b)(6)(I)(i)(II)).*

24 *(4) Section 2(b)(6)(I)(iii) (12 U.S.C.*
 25 *635(b)(6)(I)(iii)).*

1 (5) *Section 10(g)(1) (12 U.S.C. 635i-3(g)(1)).*

2 **SEC. 18. AUTHORITY TO DENY APPLICATION FOR ASSIST-**
 3 **ANCE BASED ON FRAUD OR CORRUPTION BY**
 4 **THE APPLICANT.**

5 *Section 2 of the Export-Import Bank Act of 1945 (12*
 6 *U.S.C. 635) is amended by adding at the end the following:*

7 “(f) *AUTHORITY TO DENY APPLICATION FOR ASSIST-*
 8 *ANCE BASED ON FRAUD OR CORRUPTION BY PARTY TO THE*
 9 *TRANSACTION.—In addition to any other authority of the*
 10 *Bank, the Bank may deny an application for assistance*
 11 *with respect to a transaction if the Bank has substantial*
 12 *credible evidence that any party to the transaction has com-*
 13 *mitted an act of fraud or corruption in connection with*
 14 *a transaction involving a good or service that is the same*
 15 *as, or substantially similar to, a good or service the export*
 16 *of which is the subject of the application.”.*

17 **SEC. 19. CONSIDERATION OF FOREIGN COUNTRY HELPFUL-**
 18 **NESS IN EFFORTS TO ERADICATE TER-**
 19 **RORISM.**

20 *Section 2(b)(1) of the Export-Import Bank Act of 1945*
 21 *(12 U.S.C. 635(b)(1)) is further amended by adding at the*
 22 *end the following:*

23 “(L) *It is further the policy of the United States that,*
 24 *in considering whether to guarantee, insure, or extend cred-*
 25 *it, or participate in the extension of credit in connection*

1 *with the purchase of any product, technical data, or infor-*
 2 *mation by a national or agency of any nation, the Bank*
 3 *shall take into account the extent to which the nation has*
 4 *been helpful or unhelpful in efforts to eradicate terrorism.*
 5 *The Bank shall consult with the Department of State to*
 6 *determine the degree to which each relevant nation has*
 7 *been helpful or unhelpful in efforts to eradicate terrorism.”.*

8 **SEC. 20. OUTSTANDING ORDERS AND PRELIMINARY INJURY**
 9 **DETERMINATIONS.**

10 *Section 2(e) of the Export-Import Bank Act of 1945*
 11 *(12 U.S.C. 635(e)) is amended—*

12 *(1) in paragraph (2), by striking “Paragraph*
 13 *(1)” and inserting “Paragraphs (1) and (2)”;* and

14 *(2) by redesignating paragraphs (2) and (3) as*
 15 *paragraphs (3) and (4) and by inserting after para-*
 16 *graph (1) the following:*

17 *“(2) OUTSTANDING ORDERS AND PRELIMINARY*
 18 *INJURY DETERMINATIONS.—*

19 *“(A) ORDERS.—The Bank shall not provide*
 20 *any loan or guarantee to an entity for the result-*
 21 *ing production of substantially the same product*
 22 *that is the subject of—*

23 *“(i) a countervailing duty or anti-*
 24 *dumping order under title VII of the Tariff*
 25 *Act of 1930; or*

1 “(ii) a determination under title II of
2 the Trade Act of 1974.

3 “(B) AFFIRMATIVE DETERMINATION.—
4 Within 60 days after the date of the enactment
5 of this Act, the Bank shall establish procedures
6 regarding loans or guarantees provided to any
7 entity that is subject to a preliminary deter-
8 mination of a reasonable indication of material
9 injury to an industry under title VII of the Tar-
10 iff Act of 1930. The procedures shall help to en-
11 sure that these loans and guarantees are likely to
12 not result in a significant increase in imports of
13 substantially the same product covered by the
14 preliminary determination and are likely to not
15 have a significant adverse impact on the domes-
16 tic industry. The Bank shall report to the Com-
17 mittee on Financial Services of the House of
18 Representatives and the Committee on Banking,
19 Housing, and Urban Affairs of the Senate on the
20 implementation of these procedures.

21 “(C) COMMENT PERIOD.—The Bank shall
22 establish procedures under which the Bank shall
23 notify interested parties and provide a comment
24 period with regard to loans or guarantees re-
25 viewed pursuant to subparagraph (B).”.

1 **SEC. 21. SENSE OF THE CONGRESS RELATING TO RENEW-**
 2 **ABLE ENERGY TARGETS.**

3 (a) *ALLOCATION OF ASSISTANCE AMONG ENERGY*
 4 *PROJECTS.*—*It is the sense of the Congress that, of the total*
 5 *amount available to the Export-Import Bank of the United*
 6 *States for the extension of credit for transactions related*
 7 *to energy projects, the Bank should, not later than the be-*
 8 *ginning of fiscal year 2006, use—*

9 (1) *not more than 95 percent for transactions re-*
 10 *lated to fossil fuel projects; and*

11 (2) *not less than 5 percent for transactions re-*
 12 *lated to renewable energy and energy efficiency*
 13 *projects.*

14 (b) *DEFINITION OF RENEWABLE ENERGY.*—*In this*
 15 *section, the term “renewable energy” means projects related*
 16 *to solar, wind, biomass, fuel cell, landfill gas, or geothermal*
 17 *energy sources.*

18 **SEC. 22. REQUIREMENT THAT APPLICANTS FOR ASSIST-**
 19 **ANCE DISCLOSE WHETHER THEY HAVE VIO-**
 20 **LATED THE FOREIGN CORRUPT PRACTICES**
 21 **ACT; MAINTENANCE OF LIST OF VIOLATORS.**

22 *Section 2(b)(1) of the Export-Import Bank Act of 1945*
 23 *(12 U.S.C. 635(b)(1)) is further amended by adding at the*
 24 *end the following:*

25 “(M) *The Bank shall require an applicant for assist-*
 26 *ance from the Bank to disclose whether the applicant has*

1 *been found by a court of the United States to have violated*
2 *the Foreign Corrupt Practices Act, and shall maintain a*
3 *list of persons so found to have violated such Act.”.*

4 **SEC. 23. SENSE OF THE CONGRESS.**

5 *It is the sense of the Congress that, when considering*
6 *a proposal for assistance for a project that is worth*
7 *\$10,000,000 or more, the management of the Export-Import*
8 *Bank of the United States should have available for review*
9 *a detailed assessment of the potential human rights impact*
10 *of the proposed project.*

Attest:

Clerk.